

Response to Office Action
App. Ser. No. 10/018,992
Page 2

REMARKS

Claims 40 to 90 are pending.

Regarding the obviousness rejection

Claims 40 to 90 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Dietrich et al. in view of Lundberg et al. Applicants respectfully traverse the rejection.

The Office Action alleges that Dietrich discloses benzimidazole derivative compounds that include a core and neutralized enteric coatings that are in direct contact with the core. Suitable bases that can be used to neutralize the enteric coating include sodium hydroxide and ammonium hydroxide. The resulting pH of the neutralized coating can range from 4 to 8.

In addition, on page 5 of the Office Action, it is alleged that Applicants' previous affidavit was unpersuasive because it did not mention the unsuitability of Dietrich as prior art. Further, it is alleged that no records were submitted and no evidence with a verifiable date has been given.

In response, Applicants provide herewith a new declaration and supporting exhibits that address and cure the Office Action's allegations.

Applicants respectfully submit that the subject invention was conceived and reduced to practice prior to the publication of Dietrich. In support of this contention, enclosed herewith is a new declaration from Dr. Valerie Azoulay, a named inventor of the subject invention.

Specifically, an experiment was performed on January 19, 1999. The experiment featured a benzimidazole compound, specifically omeprazole, and an enteric coating.

Response to Office Action
App. Ser. No. 10/018,992
Page 3

The enteric coating was neutralized with an alkaline compound, in particular, sodium hydroxide. The resulting pH of the neutralized coating was 5.8. See paragraph 5 of the Declaration, and Exhibits A and B, submitted herewith.

Moreover, additional experiments were performed from January 19, 1999, to March 15, 1999, all before the publication of Dietrich. Many of these experiments exemplify the subject invention as claimed. In these experiments other enteric polymers were neutralized, with the neutralized enteric coating having a resulting pH range of 7.39, 7.48 and 8.03, respectively. See paragraph 6 of the Declaration, and Exhibits C and D, submitted herewith.

Because the subject invention, as outlined in the Declaration and supported by Exhibits A to D, was conceived and reduced to practice well before the publication of Dietrich, Applicants respectfully request that Dietrich be removed as prior art. Accordingly, because Dietrich can no longer be relied upon, and because it was necessary for maintaining the obviousness rejection (and Lundberg alone is insufficient to maintain the rejection), this rejection can no longer be maintained. Therefore, Applicants respectfully request that this rejection be withdrawn.

Response to Office Action
App. Scr. No. 10/018,992
Page 4

CONCLUSION

All of the issues raised in the Office Action have been addressed and are believed to have been overcome. Accordingly, it is respectfully submitted that all the claims under examination in the subject application are allowable. Therefore Applicants respectfully request a Notice of Allowance to this effect.

Respectfully submitted,



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Encl.
Request for Continued Examination
Declaration
Exhibits A-D